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Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202

In re Application of	:	
KONONOV et al.	:	
Application No.: 10/562,752	:	
PCT No.: PCT/IB04/01861	:	
Int. Filing: 08 June 2004	:	DECISION ON PETITION
Priority Date: 04 July 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: 871308.00003	:	
For: GAS MONITORING APPARATUS	:	

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a) to Accept a Patent Application Made By Other Inventors on Behalf of Non-Signing Inventor (Valery Alexandrovich Kononov)" filed 06 November 2006. Additionally, this decision is issued in response to "Supplemental Petition under 37 CFR 1.47(a) to Accept a Patent Application Made By Other Inventors on Behalf of Non-Signing Inventor" filed 08 November 2007. The \$200 petition fee has been submitted.

BACKGROUND

On 08 June 2004, applicants filed international application PCT/IB04/01861 which claimed a priority date 04 July 2003. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 04 January 2006.

On 29 December 2005, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 06 November 2006, applicants filed a petition under 37 CFR 1.47(a).

On 08 November 2007, applicants filed "Supplemental Petition under 37 CFR 1.47(a) to Accept a Patent Application Made By Other Inventors on Behalf of Non-Signing Inventor."

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor.

Applicants here have submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), the petition asserts that the nonsigning inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted to demonstrate Valery Alexandrovich Kononov's refusal to execute the application papers is contained in the declaration (of facts under 37 CFR 1.47(a)) included in the petition, and the exhibits thereto. These materials provide the required firsthand statement regarding the delivery to the nonsigning inventor of a copy of the complete application, and the nonsigning inventor's refusal to execute the application, with documentary evidence supporting the statement. Item (2) is therefore satisfied.

Regarding item (3), applicants have provided the last known address of the nonsigning inventor. Accordingly, item (3) is therefore satisfied.

Regarding item (4), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by one of the two inventors and including an unsigned signature box identifying the nonsigning inventor (Valery Alexandrovich Kononov). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (4) is therefore satisfied.

For the reasons stated above, it is appropriate to accept the application without the signature of Valery Alexandrovich Kononov under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(c) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

A handwritten signature in black ink, appearing to read "Anthony Smith", followed by a horizontal line.

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In re Application of
KONONOV et al.
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PCT No.: PCT/IB04/01861
Int. Filing: 08 June 2004
Priority Date: 04 July 2003
Attorney Docket No.: 871308.00003
For: GAS MONITORING APPARATUS

Dear Valery Alexandrovich Kononov :

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

A handwritten signature in cursive script, reading "Anthony Smith", is positioned above the typed name.

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